

Introduced by Senator Burton

February 21, 2003

An act to amend Section 1151 of the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

SB 638, as introduced, Burton. Criminal procedure: verdict form.

Under existing law a general verdict upon a plea of not guilty in a criminal proceeding is either "guilty" or "not guilty."

This bill instead would provide that the general verdict upon a plea of not guilty is "guilty," "not guilty," or "not proven." The bill also would provide that a defendant shall not be again tried for any offense for which a general verdict of "not proven" is rendered and that a general verdict of "not proven" shall have the same effect as an acquittal for purposes of double jeopardy, and would provide for the rendition of a verdict of "not guilty" or "not proven" where the jurors do not unanimously agree.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1151 of the Penal Code is amended to
2 read:

3 1151. (a) A general verdict upon a plea of not guilty is ~~either~~
4 ~~"guilty" or "not guilty," which~~ "guilty," "not guilty," or "not
5 proven" that imports a conviction or acquittal of the offense
6 charged in the accusatory pleading. Upon a plea of a former
7 conviction or acquittal of the offense charged, or upon a plea of



1 once in jeopardy, the general verdict is either “for the people” or
2 “for the defendant.” When the defendant is acquitted on the
3 ground of a variance between the accusatory pleading and the
4 proof, the verdict is “not guilty by reason of variance between
5 charge and proof.” *The defendant shall not be again tried for an*
6 *offense for which a general verdict of “not proven” is rendered.*
7 *For the purpose of Section 687, a general verdict of “not proven”*
8 *shall be an acquittal.*

9 (b) *Where the jurors do not unanimously agree upon a verdict,*
10 *the verdict shall be as follows:*

11 (1) *Where one or more, but fewer than all jurors, vote guilty,*
12 *there shall be no verdict.*

13 (2) *Where six or more jurors vote “not guilty” and six or fewer*
14 *jurors vote “not proven,” the verdict shall be “not guilty.”*

15 (3) *Where seven or more jurors vote “not proven” and five or*
16 *fewer jurors vote “not guilty,” the verdict shall be “not proven.”*

